

~~BOARD OF DENTAL EXAMINERS~~
DENTAL BOARD OF CALIFORNIA
DISCIPLINARY GUIDELINES WITH MODEL
LANGUAGE

~~NOVEMBER 8, 1996~~

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Issued by
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~~These guidelines are for use by administrative law judges, attorneys and any licensee involved in settlement of disciplinary actions or statement of issues proceedings. It is emphasized that these are guidelines and the Board acknowledges that there may be departures in individual cases depending upon mitigating or aggravating circumstances. Probation conditions are divided into two categories: (1) Standard conditions, to be used in all cases of probation; and (2) Optional conditions, to be imposed dependent upon the circumstances and nature of an individual case. Optional conditions will be used to define the extent of the disciplinary action if a given case warrants a penalty above the minimum established but below the established maximum. In a Statement of Issues, optional conditions should also be used if a probationary license is issued depending upon the nature and circumstances of the matter.~~

INTRODUCTION

In keeping with its obligation to protect the consumers of dental services from the unsafe, incompetent, negligent or impaired dentists and dental auxiliaries, the Dental Board of California ("Board") has adopted the following recommended guidelines for disciplinary orders and conditions of probation for violations of the Dental Practice Act.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount, and to the extent not inconsistent with public protection, disciplinary actions shall be calculated to aid in the rehabilitation of the licensee. Consequently, the Board requests that the Administrative Law Judge ("ALJ") clearly state the factual basis for his or her decision. This is especially important should the ALJ deviate from the recommended guidelines. The rationale for the deviation should be reflected in the decision to enable the Board to understand the reasons for the deviation and to evaluate the appropriateness of the decision.

These guidelines are for use by administrative law judges, attorneys and any licensee involved in settlement of disciplinary actions or statement of issues proceedings. It is emphasized that these are guidelines and the Board acknowledges that there may be departures in individual cases depending upon mitigating or aggravating circumstances. Probation conditions are divided into two categories: (1) Standard conditions, to be used in all cases of probation; and (2) Optional conditions, to be imposed dependent upon the circumstances and nature of an individual case. Optional conditions will be used to define the extent of the disciplinary action if a given case warrants a penalty above the minimum established but below the established maximum. In a Statement of Issues, optional conditions should also be used if a probationary license is issued depending upon the nature and circumstances of the matter.

If, at the time of hearing, the ALJ finds that the Respondent for any reason is not capable of safe practice, the Board favors outright revocation of the license. If, however, the

Respondent has demonstrated a capacity to practice dentistry safely, a stayed revocation order with probation is recommended.

Suspension of a license may also be appropriate where the public may be better protected if the practice of the dentist or dental auxiliary is suspended in order to correct deficiencies in skills, education or rehabilitation.

FACTORS TO BE CONSIDERED

In determining whether revocation, suspension or probation should be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to the public.
3. Actual or potential harm to any patient.
4. Prior disciplinary record.
5. Number and variety of violations.
6. Mitigation evidence.
7. Aggravating evidence.
8. Rehabilitation evidence.
9. In case of a criminal conviction, compliance with conditions of sentence and court-ordered probation.
10. ~~Overall Criminal~~ record.
11. Time passed since the act(s) or offense(s) occurred.
12. If applicable, evidence of expungement proceedings pursuant to Penal Code Section 1203.4.

~~Mitigation~~ Evidence of Rehabilitation:

The following documents are examples of evidence the Respondent may submit to demonstrate his or her rehabilitative efforts and dental competency:

- Successful completion of drug or alcohol treatment program
- Individual or group counseling
- Random, documented biological fluid screening
- Participation in dental support groups
- Education courses taken related to addictive disease

- Adherence to a 12-step recovery program philosophy, or equivalent
- Written documentation of participation in 12-step recovery groups, or equivalent
- Recent, dated letters from counselors regarding Respondent's participation in a rehabilitation or recovery program, where appropriate. These should include a description of the program, the number of sessions the Respondent has attended, the counselor's diagnosis of Respondent's condition and current state of rehabilitation improvement, the counselor's basis for determining improvement, and the credentials of the counselor and records from a treatment facility.
- For licensees, statement from employers documenting that the employer is aware of the previous drug or alcohol abuse problems. Statement must also substantiate that while employed, there was no evidence of continued alcohol or drug use and that the respondent performed dental functions in a safe and competent manner. Each statement should include the period of time and capacity in which the person worked with the Respondent and should contain the following sentence at the end: "I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct." It should be signed by the one making the statement and dated.
- Recent, dated laboratory analyses or drug screen reports, where appropriate.
- Recent, dated performance evaluations from Respondent's employer.
- Recent, dated physical examination reports by a licensed physician and surgeon, nurse practitioner, or physician assistant.
- Certificates or transcripts of courses related to dentistry that Respondent completed since the date of the violation. A dentist or dental auxiliary whose license has been revoked can use his or her former license number to obtain continuing education credit or hours or for any other purpose.

Mitigation Evidence:

- Length of time in practice
- No prior disciplinary action
- Illness or death of a family member or other personal circumstances affecting licensee's performance at the time of the incident

- Early admissions

OTHER SITUATIONS IN WHICH REVOCATION IS THE RECOMMENDED PENALTY

Failure to file a notice of defense or to appear at a disciplinary hearing, where the Board has requested revocation.

Violation of a condition(s) of the Board's Probation Program.

Substantiated evidence or convictions of physical abuse or sexual offenses.

PROBATION TERMS AND CONDITIONS

The Board's primary responsibility is consumer protection. The Board believes that in disciplinary matters where probation has been imposed, conditions should be established to provide for consumer protection and to allow the probationer to demonstrate rehabilitation.

The following conditions of probation provide for consumer protection and establish a mechanism to monitor the rehabilitation progress of a probationer.

Generally, the Board recommends a minimum of three years of probation unless a longer or shorter term is warranted.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Dental Board of California or its designee.

LIST OF STANDARD PROBATIONARY TERMS AND CONDITIONS

1. Obey all laws
2. Quarterly Reports
3. Comply with the Board's Probation Program
4. Address Change, Name Change, License Status
5. Meetings and Interviews
6. Status of Residency, Practice or Licensure Outside of State
7. Submit Documentation
8. Cost Recovery
9. Probation Monitoring Costs
10. License Surrender
11. Function as a Licensee
12. Continuance of Probationary Term/Completion of Probation

13. Sale or Closure of an Office or Practice
14. Notification

LIST OF ADDITIONAL PROBATIONARY TERMS AND CONDITIONS

15. Suspension of License
16. Remedial Education
17. Examination
18. Supervised Practice
19. Restricted Practice
20. Third Party Chaperone Monitor
21. Restitution
22. Community Service
23. Psychological Evaluation
24. Psychotherapy
25. Physical Evaluation
26. Diversion Program
27. Biological Testing
28. Abstain from Use of Alcohol, Controlled Substances, and Dangerous Drugs
29. Surrender/Partial Surrender of Drug Enforcement Agency Permit
30. Ethics Course
31. Billing Monitor
32. Solo Practice
33. Controlled Substance-Maintenance of Records and Inventory
34. Clinical Training Program

MODEL INTRODUCTORY LANGUAGE TO BE USED FOR ALL PROBATIONARY ORDERS

The following introductory language is to be included in decisions that place the respondent's license on probation.

IT IS HEREBY ORDERED that (INSERT APPROPRIATE LICENSE CATEGORY) Number (INSERT LICENSE NUMBER) issued to Respondent is revoked. However, the revocation is stayed and Respondent's (INSERT LICENSE CATEGORY) is placed on probation for (INSERT NUMBER OF YEARS) years on the following conditions.

In order to provide clarity and consistency in its decisions, the following language should be used in proposed decisions or stipulated agreements for exam applicants, credential applicants [those who hold a license in another state(s)], and for petitioners for reinstatement who are issued a license that is placed on probation.

Exam applicants who are placed on probation:

The application of respondent _____ for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements including payment of all fees, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent's license placed on probation for a period of-- _____ years on the following conditions:

Credential applicants who are placed on probation:

The application of respondent _____ licensure is hereby granted and a license shall be issued to respondent upon successful completion of all licensing requirements including payment of all fees. Said license shall immediately be revoked, the order of revocation stayed and respondent's license placed on probation for a period of _____ years on the following conditions:

Reinstatement of licensure with conditions of probation:

The application of respondent _____ for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent's license placed on probation for a period of _____ years on the following conditions:

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by a petitioner, a probation condition requiring payment of the original cost recovery on a payment plan must be included in the reinstatement and decision.

Language for Additional Permits

It is further ordered that (INSERT TYPE OF ADDITIONAL LICENSE OR PERMIT) Number (INSERT LICENSE OR PERMIT NUMBER) issued to Respondent is revoked. However, the revocation is stayed and Respondent's (INSERT TYPE OF ADDITIONAL LICENSE OR PERMIT) name the certificates) is placed on probation for (INSERT NUMBER OF YEARS) years on the following conditions.

STANDARD PROBATION CONDITIONS FOR ALL DECISIONS AND ORDERS

SEVERABILITY CLAUSE – Each condition of probation is a separate and distinct condition. If any condition of this Decision and Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all other applications thereof, shall not be affected. Each condition of this Decision and Order shall separately be valid and enforceable to the fullest extent permitted by law.

RATIONALE: The severability clause is required for all decisions and orders and stipulated agreements where there are conditions of probation, to avoid the possibility of all probation conditions being invalidated upon a successful appeal.

(1) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws and all rules and regulations governing the practice of dentistry in California, and remain in full compliance with any court ordered criminal probation, payments and other requirements. A full and detailed account of all misdemeanor and felony arrests and convictions shall be reported by Respondent to the Board in writing within ~~seventy-two (72) hours~~ seven (7) days of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit a completed California Department of Justice state and federal Livescan fingerprint form, unless previously submitted as part of the licensure application process. Fingerprints shall be submitted within 15 calendar days of the effective date of the Decision and Order.

CRIMINAL COURT ORDERS: If Respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

OTHER BOARD OR REGULATORY AGENCY ORDERS: If Respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in California or elsewhere, and violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

RATIONALE: All licensees are responsible for abiding by federal, state, and local laws. Licensees are also responsible for complying with criminal court orders. If a licensee is subject to other health-care related board or regulatory agency orders, violations of those orders may impact the status of his or her discipline by the Board. This condition emphasizes the Respondent's responsibility and specifies the Board's authority to take more immediate and severe action if other violations occur. If a licensee whose license is on probation violates other probationary conditions or order they may be unsafe to practice in this state.

(2) QUARTERLY REPORTS – Respondent shall submit a quarterly reports signed under penalty of perjury stating whether there has been compliance with all the conditions of probation. Respondent shall submit a quarterly report no later than seven (7) calendar days from the beginning of the assigned quarter.

RATIONALE: This provides the Board with a mechanism for maintaining communication with the Respondents between meetings; gathering pertinent information from Respondent's; obtaining written materials, other than routine reports, that might be deemed necessary on an individual basis. This also allows coordination with other state agencies that discipline dentists and dental auxiliaries.

(3) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Respondent shall fully comply with the conditions of probation established by the Board and all requirements necessary to implement the conditions of probation. Respondent shall cooperate with the Board in its monitoring and investigation of the Respondent's compliance with the conditions of probation. Respondent shall respond to all requests and inquiries from the Board within the time period specified by the Board.

Upon successful compliance with the conditions of probation, and completion of the probation term, Respondent's license shall be fully restored.

RATIONALE: Full compliance with conditions of probation demonstrate a Respondent's commitment to rehabilitation and to correcting the problems which led to the disciplinary action.

(4) ADDRESS CHANGE, NAME CHANGE, LICENSE STATUS - Respondent shall inform the Board in writing within 15 calendar days of any change in his or her address of record, physical employment address, physical residence address, and any legal name change. Respondent shall maintain an active, current license with the Board, including while suspended from practice of dentistry unless otherwise specified by the disciplinary orders.

Any misrepresentation by Respondent of his or her restricted license status to the public shall be a violation of the probation conditions.

RATIONALE: Informing the Board of address and name changes is necessary to ensure ongoing Board monitoring and contact with the Respondent.

(5) MEETINGS AND INTERVIEWS- Respondent shall appear in person for meetings and shall be available by telephone for interviews as directed by the Board.

RATIONALE: This provides a means for the Board representatives to make periodic assessments of the Respondent, to determine compliance with probation conditions and to give guidance and directions to licensees on probation.

(6) STATUS OF RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - In the event Respondent should leave California to reside or practice outside the state, Respondent must provide written notification to the Board of the dates of departure and

anticipated return to the state. Respondent's probation is tolled, if and when he or she ceases practicing in California. Period of practice outside of California will not apply to the reduction of the probationary period.

Respondent shall provide a list of all states, United States territories, and elsewhere in the world where he or she has ever been licensed as a dentist or dental auxiliary or held any health-care related professional license or certificate. Respondent shall further provide information regarding the status of each license and certificate and any changes in the license or certificate status during the term of probation. Respondent shall inform the Board if he or she applies for or obtains a dental or dental auxiliary license or certificate outside of California during the term of probation.

For purposes of this condition, non-practice due to Board ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

RATIONALE: Ensures that Respondents may not complete probation without being fully monitored for their period of probation in California. This further ensures that the Board is aware of all licensure outside of California as a dentist or dental auxiliary or in any health care related capacity.

(7) SUBMIT DOCUMENTATION - Upon request, Respondent shall submit documentation to the Board including, but not limited to the following: Livescan forms, quarterly reports, authorization for release of confidential information.

Such documentation shall be submitted under penalty of perjury, as required by the Board. On a case-by-case basis, documents shall be required to contain statements relative to Respondent's compliance with all the conditions of probation, and compliance with Board instructions.

RATIONALE: This provides the Board with a mechanism for maintaining communication with the Respondent between meetings; gathering pertinent information from the Respondent; and obtaining written materials, other than routine reports, that might be deemed necessary on an individual basis.

(8) COST RECOVERY – Respondent is hereby ordered to reimburse the Board the amount of \$ _____ within ninety (90) calendar days from the effective date of this decision for its investigative and prosecution costs up to the date of the hearing. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probationary order, unless the Board or its designee agrees in writing to payment by an installment plan because of financial hardship. Any and all requests for a payment plan shall be submitted in writing by Respondent to the Board. However, full payment of any and

all costs required by this condition must be received by the Board no later than one (1) year prior to the scheduled termination of probation. ~~The filing of bankruptcy or p~~Periods of non-practice by Respondent shall not relieve Respondent of his or her obligation to reimburse the Board for its costs.

RATIONALE: The Board has statutory authority to collect probation monitoring costs and all orders should contain this provision.

(9) PROBATION MONITORING COSTS: All costs incurred for probation monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and conditions may also cause this amount to be increased.

All payments for costs are to be sent directly to the Board and must be received by the dates specified.

If Respondent is unable to submit costs for any month, he or she shall be required, instead to submit an explanation of why he or she is unable to submit the costs, and the dates he or she will be able to submit the costs including payment amounts. Supporting documentation and evidence of why the Respondent is unable to make such payments must accompany this submission.

In addition to any other disciplinary action taken by the Board, the probationary period will be extended.

RATIONALE: The Board has statutory authority to collect probation monitoring costs and all orders should contain this provision.

(10) LICENSE SURRENDER - If Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his or her license to the Board. The Board shall evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Such surrender shall be accomplished through a written stipulated agreement, without the filing of an accusation or petition to revoke probation, and without further hearing. Upon formal acceptance of the surrender, Respondent shall deliver his or her wallet and wall certificate to the Board or its designee and Respondent shall no longer practice dentistry or be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. If Respondent re-applies for

a dental license, the application shall be treated as a petition for reinstatement of a revoked license.

(11) FUNCTION AS A LICENSEE – Respondent, during the period of probation, shall engage in the practice of [INSERT APPROPRIATE LICENSING CATEGORY, e.g. dentistry, dental hygiene, dental hygiene in extended functions, etc.] in California for a minimum of sixteen (16) hours per week or sixty-four (64) hours per calendar month. For the purpose of compliance with this section, “engaged in the practice of [INSERT APPROPRIATE LICENSING CATEGORY] may include, when approved the Board, volunteer work in [INSERT APPROPRIATE LICENSING CATEGORY], or work in any non-direct patient position that requires licensure.

In the event Respondent should leave California to practice outside the state, Respondent must provide written notification to the Board of the dates of departure and anticipated return to the state. Respondent’s probation is tolled, if and when he or she ceases practicing in California. Periods of practice outside of California will not apply to the reduction of the probationary period. In the event Respondent ceases to practice a minimum of sixteen (16) hours per calendar week or sixty-four hours per calendar month in California, Respondent must provide written notification of that fact to the Board. The period when the Respondent is not practicing, the minimum number of hours, will not apply to the reduction of the probationary period. Absence from practice shall not relieve the Respondent from maintaining a current license or from fulfilling all of the terms and conditions of probation. For purposes of this condition, non-practice due to Board ordered suspension shall not be considered a period of non-practice. If Respondent stops practicing in California for a total of five (5) years, Respondent’s license shall be automatically cancelled.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if Respondent is in compliance with all other probation conditions, the Board, in its sole discretion, may grant an extension of Respondent’s probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply unless they have been modified by the Board via a petition for modification of probation.

RATIONALE: This provides the Board with an opportunity to monitor Respondents and determine if they can perform the functions and duties of his or her licensing category in a competent manner. It also prevents Respondents from merely “sitting out” the probation and avoiding the necessity of demonstrating competence and compliance with probation conditions.

STANDARD CONDITIONS OF PROBATION

1. ~~1. — Obey All Laws – Respondent shall comply with all conditions of probation and obey federal, state and local laws and all rules and regulations governing the practice of dentistry in California, and remain in full compliance with any court ordered criminal probation, payments and other requirements.~~
2. ~~2. — Quarterly Declarations – Respondent shall submit quarterly declarations under penalty of perjury on the Board's Quarterly Report of Compliance forms provided by the Board, stating whether there has been compliance with all the conditions of probation.~~
3. ~~3. — Probation Surveillance – Respondent shall comply with the Board's probation surveillance program.~~
4. ~~4. — Interviews – Respondent shall appear in person for interviews with a Board representative upon request at various intervals and with reasonable notice.~~
5. ~~5. — Change of Address – Respondent shall inform the Board in writing within 15 days of any change of place of practice or place of residence. Respondent shall at all times keep the Board informed of his or her address of business and residence which shall both serve as addresses of record. Under no circumstances shall a post office box serve as an address of record.~~

~~Respondent shall also immediately inform the Board, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.~~
6. ~~6. — Cost Recovery – Respondent is hereby ordered to reimburse the Board the amount of \$_____ within 90 days from the effective date of this decision for its investigative and prosecutorial costs up to the date of the hearing. Failure to reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the probationary order, unless the Board or its Executive Officer agrees in writing to payment by an installment plan because of financial hardship. However, full payment must be received no later than one year prior to the scheduled termination of probation.~~
7. ~~7. — License Surrender – Following the effective date of this decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily surrender his/her license to the Board. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.~~
8. ~~8. — Absence from State/Practice – In the event Respondent should leave California to reside or practice outside the State, Respondent must provide written notification to the Board of the dates of departure and return. Periods of residence or practice outside of California will not apply to the reduction of the probationary period. In the event Respondent ceases to actively practice [dentistry] [dental auxiliary duties] in California, Respondent must provide written notification of that fact to the Board. The period when the~~

~~Respondent is not practicing will not apply to the reduction of the probationary period. Absence from the state or absence from practice shall not relieve the Respondent from fulfilling the conditions of probation requiring reimbursement of costs or restitution to patients or on behalf of patients.~~

9.(12) CONTINUANCE OF PROBATIONARY TERM/COMPLETION OF PROBATION - If ~~Respondent~~ violates the terms of this probation in any respect, the Board, after giving ~~Respondent~~ notice and the opportunity to be heard, may set aside the stay order and impose the revocation or suspension of the ~~Respondent's~~ license. If, during the period of probation, an accusation and/or a petition to revoke probation or both has been filed against ~~Respondent's~~ license or the Attorney General's Office has been requested to prepare an accusation and/or a petition to revoke probation or both against ~~Respondent's~~ license, the probationary period shall automatically be extended and shall not expire until the accusation and/or the petition to revoke probation has been acted upon by the Board. Upon successful completion of probation, ~~Respondent's~~ license will be fully restored.

RATIONALE: The provision ensures that the Board will be able to continue monitoring the practice of licensees who are either out of compliance with his or her probation conditions or have allegedly committed further acts that constitute a violation of the Dental Practice Act. This is necessary to protect the public from licensees who have already demonstrated a lack of compliance.

(13) SALE OR CLOSURE OF AN OFFICE AND/OR PRACTICE - If Respondent sells or closes his or her office after the imposition of administrative discipline. Respondent shall ensure the continuity of patient care and the transfer of patient records. Respondent shall also ensure that patients are refunded money for dental work not completed performed, and shall not misrepresent to anyone the reason for the sale or closure of the office and/or practice. The provisions of this condition in no way authorize the practice of dentistry by the Respondent during any period of license suspension.

RATIONALE: This provision is intended to protect patients whose dentist of record has been disciplined and he or she needs to or chooses to sell or close his or her practice.

(14) NOTIFICATION - Prior to engaging in the practice of dentistry, the Respondent shall provide a true copy of the Decision and Accusation to his or her employer, and at any other facility where Respondent engages in the practice of dentistry. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in place of employment.

RATIONALE: The condition provides the Board with a mechanism for ensuring that the employer providing dental services is informed of the license status of the respondent so that, if necessary, the work environment can be structured to ensure consumer safety.

OPTIONAL-ADDITIONAL CONDITIONS OF PROBATION
MODEL LANGUAGE

1. ~~Suspension~~ In those cases where suspension is warranted, the suspension must be a minimum of 20 days unless otherwise noted. In those cases involving fraud, false advertising or excessive billing, the minimum period of suspension shall be 30 days.

Model Language

(15) SUSPENSION - Commencing from the effective date of this decision, ~~Respondent~~ shall be suspended from the practice of dentistry for a minimum period of (minimum of 30 14 days or months). Respondent shall not mislead patients regarding the reasons for suspension from practicing dentistry.

During the suspension ~~Respondent~~ shall not practice dentistry directly or indirectly, including the supervision of dental auxiliaries, nor shall ~~Respondent~~ receive or have set aside for future receipt, any new monies derived from the practice of dentistry as defined by the provisions of Business and Professions Code Section 1625, which includes managing or conducting as manager, proprietor, conductor, lessor, or otherwise, a place where dental operations are performed.

If ~~Respondent~~ operates his or her own office as a solo ~~practice~~practitioner or as a one person professional corporation, said office is to be closed except for administrative purposes (making future appointments when suspension is over, opening mail, referring patients, accepting payments on account, and general office administration); and ~~Respondent~~ shall not lease the dental office nor make any monetary gain from the practice earned during the period of time that the office is closed.

During the suspension period, all probation conditions are in full force and effect except those relating to the actual practice of [INSERT APPROPRIATE LICENSE CATEGORY.]

RATIONALE: This provision is necessary for the protection of the public because in some cases the licensee needs to stop practicing and participate in either rehabilitation or remedial education before resuming practice. And, it is appropriate in cases where the serious nature of the misconduct warrants a period of suspension from practice.

~~2. Remedial Education – In those instances where a licensee has demonstrated negligence and/or incompetence, or has been found guilty of performing work or attempting treatment beyond the scope of training and experience, the Board will impose a program of remedial education. This program shall specify the areas and/or hours of education required, and may also dictate the institution(s) where the education will be received. A remedial education program is usually required prior to allowing the licensee to return to the identified deficient area of practice, and requires prior approval by the Board. Continuing education courses used for renewal of licensure will not fulfill the remedial education requirement.~~

Model Language:

(16) REMEDIAL EDUCATION – Within (30 to 90 days) of the effective date of this decision, ~~Respondent~~ shall submit to the Board for its prior approval, an appropriate program of remedial education related to ~~(the cause of disciplinary action)~~ in an educational facility or program which must also to be approved by the Board. *(If appropriate, Respondent shall be evaluated by a dental educational institution prior to submitting remedial education courses for approval.)* The exact number of hours and specific content of the program shall be determined by the Board or its designee. Respondent shall successfully complete the remedial education program and may be required to pass an examination administered by the Board or its designee related to the program's content. *(If appropriate, Respondent shall be restricted from the practice of {areas where a deficiency has been identified} until the remedial education program has been successfully completed.)* Respondent shall pay all costs of the remedial education program. ~~The period of probation will be extended, if necessary, until such remedial education is completed. Continuing education courses used for the renewal of licensure will not be used for remedial education.~~

RATIONALE: In those instances where a licensee has demonstrated negligence or incompetence, or has been found to have performed work or attempting treatment beyond the scope of training or experience, the Board will impose a program of remedial education. This program shall specify the areas and hours of education remediation required, and may also dictate the institution(s) where the education will be received. A remedial education program is usually required prior to allowing the licensee to return to the identified deficient area of practice, and requires prior approval by the Board. Continuing education courses used for renewal of licensure will not fulfill the remedial education requirement. **NOTE:** This program is for dentists and auxiliaries who have demonstrated deficiencies in skill but do not constitute a present danger to patients in other areas of practice.

~~3. Examination – This condition concerns itself with those individuals who are very deficient in the practice of dentistry or who have had a prior revocation and are petitioning the Board for reinstatement of their license. This condition will also apply to licensees who have had prior restrictions on practicing in a particular area or specialty field.~~

Model Language

(17) EXAMINATION – Respondent shall not practice dentistry until he or she has passed the California clinical examination or the Western Regional Examination Board examination. ~~Within _____ of the effective date Respondent shall take and pass either the California clinical examination or the Western Regional Examination Board examination an examination in (area(s) of identified deficiencies)(if licensure exam is required, it shall be taken on a regularly scheduled examination date and Respondent must successfully pass the complete examination based upon the same standards of the initial licensure examination).~~ Respondent shall pay all fees related to the examination. ~~If unsuccessful, Respondent may not be reexamined prior to 60 days after failure of the examination and may not take the examination more than three times per year. If rRespondent fails the examination three times, a period of one year must pass prior to retaking the required examination. Under the condition of failure for three times, the rRespondent must also show evidence of remediation in the deficient area(s) prior to retaking the examination. Respondent must be successful with a score of 75% in each section of the examination in order to fulfill this requirement and may not practice until totally successful. The probation period is tolled until Respondent passes either examination.~~

~~(Continue with either one of these two options.)~~

~~OPTION #1: Condition Precedent~~

~~Respondent shall not practice dentistry until Respondent has passed the required examination and has been so notified by the Board or its designee in writing. This prohibition shall not bar respondent from practicing in a clinical training program approved by the Board, or its designee. Respondent's practice shall be restricted only to that which is required by the approved training program.~~

~~OPTION #2: Condition Subsequent~~

~~If respondent fails to pass the first examination, respondent shall be suspended from the practice of dentistry until a repeat examination has been successfully passed, as evidenced by written notice to respondent from the Board or its designee.~~

~~NOTE: _____ The condition precedent option is particularly recommended in cases where respondent has been found guilty of gross negligence, incompetence or repeated negligence and is a present danger to patients.~~

RATIONALE: This condition concerns itself with those individuals who are significantly deficient in the practice of dentistry or who have had a prior revocation and are petitioning the Board for reinstatement of their license. This condition will also apply to licensees who

have had prior restrictions on practicing in a particular area or specialty field. This condition is particularly recommended in cases where Respondent has been found to have committed gross negligence, incompetence or repeated negligence.

4. ~~Supervised Environment~~ - This condition allows the Board to monitor the competency of respondent by use of a fellow practitioner. It is most appropriate in those cases involving incompetence, negligence, drug abuse, and sexual misconduct. The type of supervision needs to be clearly defined relative to the necessity for the presence of the supervisor. Direct supervision would require the physical presence of the supervisor during the time dental procedures are performed. General supervision does not require the physical presence of the supervising dentist. The type of required supervision depends on the severity of the violation(s).

Model Language

(18) SUPERVISED EnvironmentPRACTICE - Within 60 days of the effective date of this decision, ~~Respondent~~ shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which ~~Respondent's~~ practice would be supervised. The Board will advise Respondent within two weeks whether or not the proposed supervisor and plan of supervision are approved. Respondent shall not practice until receiving notification of Board approval of ~~Respondent's~~ choice of a supervisor and plan of supervision.

The plan of supervision shall be *(direct and require the physical presence of the supervising dentist in the dental office during the time dental procedures are performed.) (general and not require the physical presence of the supervising dentist during the time dental procedures are performed but does require an occasional random check of the work performed on the patient as well as quarterly monitoring visits at the office or place of practice).* Additionally, the supervisor shall have full and random access to all patient records of ~~Respondent~~. The supervisor shall may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each proposed supervisor shall be a California licensed dentist who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of ~~Respondent's~~ performance. It shall be ~~Respondent's~~ responsibility to assure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in California for at least five (5) years and not have ever been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline and therefore, in and of itself is not a reason to deny an individual as a supervisor.

The supervisor shall be independent, with no prior business or professional relationship with ~~the~~ Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner or associate of ~~the~~ Respondent. If the supervisor terminates or is otherwise no longer available, ~~the~~ Respondent shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by the ~~the~~ Respondent.

OPTION: ~~— Additionally, Respondent may be prohibited from engaging in solo practice as well as being required to work in a supervised environment.~~

RATIONALE: This condition allows the Board to monitor the competency of Respondent by use of a fellow practitioner. It is most appropriate in those cases involving incompetence, negligence, and sexual misconduct. The type of supervision needs to be clearly defined relative to the necessity for the presence of the supervisor. Direct supervision would require the physical presence of the supervisor during the time dental procedures are performed. General supervision does not require the physical presence of the supervising dentist. The type of required supervision depends on the severity of the violation(s).

5. ~~— Restricted Practice — This condition is directed toward those licensees who need to have their practice restricted in a specific area/specialty due to physical/educational limits, or need to have their patient population restricted due to established harm. This condition is primarily intended to protect future patients from potential abuse and/or harm.~~

~~In those cases where practice is restricted by either scope of practice or by the age and/or gender of patients, the respondent must notify all current and prospective patients of the restriction.~~

Model Language

(19) RESTRICTED PRACTICE - Respondent shall not practice which includes consulting, examining and treating in (area of noted deficiency) (shall not treat {male}{female}{minors} patients {without the presence of another party}). Within 30 days from the effective date of this decision, ~~the~~ Respondent shall submit to the Board, for prior approval, a plan to implement this restriction. ~~Respondent shall, within 30 days of the effective date of the decision, submit to the Board for its approval name(s) of persons who will act as the third party present. The ~~the~~ Respondent shall execute a release authorizing the third party(s) present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis.~~ Respondent shall submit proof satisfactory to the Board of compliance with this term of probation.

Respondent shall notify all current and prospective patients of the (inability to perform the dental procedure of —) (inability to treat [female] [male] [minor] without the

~~presence of a third party) by posting a written notification visible to all patients before they receive any dental treatment.~~ Respondent shall submit documentation which provides satisfactory evidence of compliance with this term of probation.

RATIONALE: The condition prevents the Respondent from engaging in the practice of dentistry in situations where there is no close supervision and/or where the respondent could have undue authority over others and access to controlled substances.

NOTE: Respondents found to have violation(s) or conviction(s) of sexual misconduct shall also be placed in a supervised environment.

(20) THIRD PARTY CHAPERONE MONITOR - During probation, Respondent shall have a third party Board-approved monitor present at all times while consulting, examining or treating (INSERT PATIENT CATEGORY, e.g., male, female, or minors) patients. Respondent shall, within (30) calendar days of the effective date of the Decision, submit to the Board for prior approval names of persons who will act as the third party monitor. Each third party monitor shall initial and date each patient dental record at the time the monitor's services are provided. Each third party monitor shall read the Decision(s) and the Accusation(s) and fully understand the role of the third party monitor.

Respondent shall maintain a log of all patients seen for whom a third party monitor is required. The log shall contain the; 1) monitor's name, patient name, age, gender, address, and telephone number; and date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board, and shall retain the log for the entire term of probation. Failure to maintain a log of all patients requiring a third party monitor, or to make the log available for immediate inspection and copying on the premises, is a violation of probation.

Respondent shall provide written notification prior to treatment to Respondent's affected patients that a third party monitor shall be present during all consultations, examination, or treatment with (e.g., male, female, or minor) patients. Respondent shall maintain in the patient's file a copy of the written notification, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the Board, and shall retain the notification for the entire term of probation.

Respondent shall submit documentation to the Board that provides satisfactory evidence of compliance with this term of probation.

RATIONALE: This condition should only be imposed in those rare instances where the Respondent's misconduct was not serious has shown evidence of rehabilitation and is no longer considered a danger to patients. Respondent has shown rehabilitation and

~~Respondent has no other deficiencies. In those instances where the misconduct was serious or involved more than one patient Respondent is still considered a danger to patients, revocation should be imposed.~~

NOTE: In those cases where practice is restricted by either scope of practice or by the age or gender of patients, the Respondent must notify all current and prospective patients of the restriction. Respondents found to have violation(s) or conviction(s) of sexual misconduct shall also be placed in a supervised environment.

~~6. — Sale or Closure of an Office and/or Practice – If a dentist will be under suspension for a long period of time or if placed under a restricted/supervised practice setting, the dentist may need to sell and/or close the practice. Where a sale or closure may or could occur, conditions of probation should be levied which ensure:~~

- ~~1. — The dentist provides for the continuity of care and the transfer of records for all patients;~~
- ~~2. — The dentist refunds to patients any money paid for work not performed; and,~~
- ~~3. — The dentist must not misrepresent to anyone the reasons for the sale/closure of the office and/or practice.~~

Model Language

~~Sale or Closure of an Office and/or Practice – If respondent sells or closes his or her office after the imposition of administrative discipline, respondent shall ensure the continuity of patient care and the transfer of patient records. Respondent shall also ensure that patients are refunded money for dental work not performed, and shall not misrepresent to anyone the reason for the sale or closure of the office and/or practice. The provisions of this condition in no way authorize the practice of dentistry by the respondent during any period of license suspension.~~

~~7. — Restitution – Where there has been patient harm resulting from negligent or incompetent treatment or a determination has been made concerning fraudulent billing, restitution may be warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the patient or any other applicable entity. Reimbursement may be made within a specific time frame and/or on a payment schedule. Restitution should cover those amounts which were a direct result of the actions of respondent.~~

Model Language

(21) RESTITUTION - Within (30 to 90) days of the effective date of this decision, Respondent shall make arrangements for restitution to (patient or entity) in the amount of

(dollar amount). (Insert who payment is to be made and when it is due. If a payment plan is imposed, insert specifics regarding payment plan.)

OPTION: ~~— A payment schedule may be made.~~

RATIONALE: Where there has been patient harm resulting from negligent or incompetent treatment or a determination has been made concerning fraudulent billing, restitution may be warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the patient or any other applicable entity. Restitution may be made within a specific time frame or on a payment schedule. Restitution should cover those amounts that are a direct result of the actions of Respondent.

~~8. Community Service Condition of Probation - This may be a separate condition of probation. It may also be an alternative to all or part of the period of suspension unless the dentist has been found guilty of violations of quality of care. (B&P 1671(e)). If the violation relates to quality of care, the community service shall not be dentally related. This condition may also be imposed in addition to, as well as in lieu of, a period of suspension.~~

Model Language

(22) COMMUNITY SERVICE ~~(as a Condition of Probation)~~ - Within 60 days of the effective date of this decision, ~~Respondent~~ shall submit to the Board, for its prior approval, a community service program for the *(first year of probation or a specified period of probation)* in which ~~Respondent~~ shall provide volunteer services on a regular basis to a non-profit community or charitable facility or agency for at least *(number of hours per month/year for the first year or specified period of probation)*. Such community service shall be *(dentally or non-dentally)* related.

Community service required by this condition shall be performed in the State of California. Community service performed prior to the effective date of the Decision shall not be accepted in fulfillment of this condition.

Prior to engaging in any community service Respondent shall provide a true copy of the Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where Respondent provides community service and shall submit proof of compliance to the Board or its designee within 15 calendar days. This condition shall also comply to any change(s) in community service.

All community services must be completed no later than one hundred and twenty (120) calendar days prior to the scheduled termination of probation.

~~OPTION: — No later than 30 days from the effective date of the decision, Respondent may submit for Board approval a community service program which would be in lieu of (number of days) days of suspension.~~

RATIONALE: The Dental Practice Act authorizes the Board to impose as a condition of probation the fulfillment of community service. This is appropriate in those cases where the Respondent has violated the public's trust. If the violation relates to quality of care, the community service shall not be dentally related.

~~9. Patient Notification — Respondent shall notify all current and prospective patients of the (inability to perform the dental procedure of —) (inability to treat [female] [male] [minor] without the presence of a third party). Respondent shall submit documentation which provides satisfactory evidence of compliance with this term of probation.~~

10. Psychiatric/Physical(23) PSYCHOLOGICAL EVALUATION - This condition shall be applied, but not limited to, any licensee who may be affected by a psychological/physical illness, or who is guilty of gross immorality/sexual misconduct and/or a substantially related conviction. This evaluation may be ordered and the results evaluated prior to allowing practice by the respondent.

Model Language

Psychiatric/Psychological Evaluation - Within 60 days of the effective date of this decision, and on a periodic basis thereafter as required by the Board or its designee, ~~r~~**R**espondent shall undergo a ~~psychiatric~~ psychological evaluation by a licensed psychiatrist or psychologist ~~(appointed or approved)~~ by the Board. The psychiatrist or psychologist shall have been licensed for a minimum of five years and shall not have been subject to discipline by a regulatory agency. Such ~~The~~ evaluator shall furnish a **detailed** written report to the Board ~~or its designee~~ regarding ~~r~~**R**espondent's judgment and ability to practice dentistry independently and safely practice dentistry and such other information as the Board may require. The cost of ~~such~~ the evaluation shall be ~~borne~~ paid by ~~r~~**R**espondent. Respondent shall execute a Release of Information form authorizing the evaluator to release all information to the Board. Respondent shall comply with all of the recommendations of the evaluator unless excused by the Board in its sole discretion. **This evaluation shall be confidential by the Board and is not subject to discovery.** This evaluation shall be treated as confidential by the Board and is not subject to discovery. ~~(If appropriate, respondent shall not practice until notified by the Board of the determination that respondent is fit to safely practice dentistry.)~~ Psychological evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement.

~~If there is a need for ongoing psychiatric psychological treatment, Respondent shall, within 30 days of the requirement notice, submit to the Board for its prior approval the name and qualifications of a psychotherapist psychiatrist licensed mental health professional of Respondent's choice. If the psychological evaluation recommends that Respondent seek treatment from a specific type of mental health professional (e.g. psychiatrist, psychologist, licensed clinical social worker or marriage and family therapist), Respondent shall only submit for consideration those who meet that recommendation. Respondent shall undergo and continue psychotherapy until further notice from the Board or its designee. Respondent shall have the treating psychotherapist mental health care professional submit quarterly status reports to the Board or its designee indicating whether the Respondent is capable of practicing dentistry safely.~~

OPTION: Respondent shall not engage in the practice of dentistry until notified by the Board in writing or its designee of its determination that ~~Respondent is~~ safe to practice dentistry independently and safely mentally fit to practice safely. The period of time that Respondent is not practicing shall not be counted toward completion of the term of probation.

NOTE: ~~This condition shall not apply if it is clear at the hearing that psychotherapy is a necessary condition of probation.~~

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board.

Respondent's failure to undergo and complete the psychological evaluation, recommended therapy or comply with any other recommendations by the evaluator is a violation of probation.

RATIONALE: This condition shall be applied, but not limited to, any licensee who may be affected by a psychological problem, who has committed an act of sexual misconduct or who has suffered a substantially related conviction. This evaluation may be ordered and the results evaluated prior to allowing practice by the Respondent.

11. Psychotherapy ~~Where it has been determined at the hearing that psychotherapy is warranted, a treatment program requiring prior Board approval shall be instituted. The treatment program should identify the proposed therapist(s), duration of treatment, and results of treatment prior to termination to enable the Board to adequately assess the mental condition of the respondent.~~

Model Language

(24) PSYCHOTHERAPY - Within ~~60~~45 days of the effective date of this decision, or within ~~60~~45 days of a determination that psychotherapy is required, ~~r~~Respondent shall submit a proposed therapist and plan of therapy to be approved by the Board. The cost of therapy shall be borne by ~~r~~Respondent. The plan of therapy shall include the nature of the treatment and its proposed duration. The psychotherapist shall agree to submit quarterly reports to the Board regarding the progress and participation of ~~r~~Respondent. The treatment program shall not be terminated except upon Board approval after submission of the results of the program by the psychotherapist.

If there is a need for ongoing psychiatric psychological treatment, Respondent shall, within 30 days of the requirement notice, submit to the Board for it prior approval the name and qualifications of a psychotherapist psychiatrist licensed mental health professional of Respondent's choice. If the psychological evaluation recommends that Respondent seek treatment from a specific type of mental health professional (e.g. psychiatrist, psychologist, licensed clinical social worker or marriage and family therapist), Respondent shall only submit for consideration those who meet that recommendation. Respondent shall undergo and continue psychotherapy until further notice from the Board or its designee. Respondent shall have the treating psychotherapist mental health care professional submit quarterly status reports to the Board or its designee indicating whether the Respondent is capable of practicing dentistry safely.

RATIONALE: This condition should be imposed whenever there is evidence that the Respondent may have a psychological problem that may impact his or her being able to practice safely. If the Respondent is already in therapy this condition should be imposed to ensure that he or she continues to receive help.

Model Language

(25) PHYSICAL EVALUATION

Within 45 days of the effective date of this decision, Respondent, at his or her expense, shall have a licensed physician and surgeon, who is approved by the Board before the assessment is performed, submit an assessment of the Respondent's physical condition and capability to perform the duties of a dentist. **Such an assessment shall be submitted in a format acceptable to the Board.** If medically determined, a recommended treatment program will be instituted and followed by the Respondent with the physician providing written reports to the Board ~~on forms provided by the Board.~~

If Respondent is determined to be unable to practice dentistry safely **with or without restrictions**, the licensed physician and surgeon making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by

the Board in writing. During this period of cessation of practice, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of cessation of practice shall not apply to the reduction of this probationary time period.

If the Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent's license is immediately suspended and he or she shall immediately cease practice and shall not resume practice until notified by the Board in writing. This period of suspension of practice shall not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

Physical evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement.

OPTION: **Respondent shall not engage in the practice of dentistry until notified by the Board in writing or its designee of its determination that Respondent is safe to practice dentistry independently and safely mentally fit to practice safely. The period of time that Respondent is not practicing shall not be counted toward completion of the term of probation.**

RATIONALE: This condition shall be applied, but not limited to, any licensee whose ability to practice safely may be affected by a physical condition. This evaluation may be ordered and the results evaluated prior to allowing practice by the Respondent.

~~12. Diversion - Where it has been determined that a treatment program relating to drug or alcohol impairment is warranted, this condition of probation should be imposed. This condition is to be imposed when there is a violation of alcohol/substance abuse laws and in stipulations where there is the probability that the cause of other types of violations was chemical dependency.~~

Model Language

(26) DIVERSION PROGRAM - Within ~~30~~ 7 days of the effective date of this Decision, Respondent shall contact, ~~in writing,~~ the Program Manager of the Board's Diversion Program **or his or her designee** to schedule an intake and assessment and drug testing for evaluation by the Diversion Evaluation Committee (DEC). If Respondent fails to participate in the time required by the Diversion Program in the initial intake and

assessments before his or her meeting with the DEC, this shall constitute a violation of probation and shall be reported to the enforcement program. If the Board notifies Respondent in writing that due to his or her failure of such failure to participate in the time required for the initial intake and assessment, he or she shall immediately cease practicing. If the DEC determines that Respondent is not appropriate for the program for reasons other than Respondent's failure to cooperate or make a good faith effort to participate, this condition of probation will have been met. If accepted into the program, Respondent shall fully comply with the terms and conditions of treatment **and** any other requirements as prescribed imposed by the DEC. Any costs incurred shall be paid by will be the responsibility of Respondent. Failure to successfully complete the DEC treatment **Diversion Program** shall constitute a violation of probation.

RATIONALE: Where it has been determined that in order to protect the public, a licensee or applicant should be evaluated to determine if he or she should participate in the Board's Diversion Program due to drug or alcohol impairment, this condition of probation should be imposed.

13. ~~Biological Fluid Testing~~—This probation condition will allow the Board to monitor the Respondent in order to ascertain if he/she is substance and/or chemical free. It is to be required when the Respondent has violated any alcohol or substance abuse prohibitions.

Model Language

(27) BIOLOGICAL FLUID TESTING - Respondent shall submit to and pay for **any** random biological fluid testing at his/her own expense upon the demand of the Board or its designee, or hair sample, breath alcohol or any other mode of testing required by the Board. Respondent shall have the test performed by a Board-approved laboratory within ~~three~~ twelve (12) hours upon request by the Board, or sooner if so requested by the Board and this shall ensure that the test results are sent immediately to the Board. Failure to comply within the time specified shall be considered an admission of a positive drug screen and constitutes a violation of probation. If a test results in a determination that the urine admission was too diluted for testing, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation. If an "out of range result" is obtained, the Board may require Respondent to immediately undergo a physical examination and to complete laboratory or diagnostic test to determine if any underlying physical condition has contributed to the diluted result and to cease practice. Any such examination or laboratory and testing costs shall be paid by respondent. An "out of range result" is one in which, based on scientific principles, indicates the Respondent attempted to alter the test results in order to either render the test invalid or obtain a negative result when a positive result should have been the outcome. If it is determined that Respondent altered the test results, the result shall be considered an admission of a positive urine screen and

constitutes a violation of probation and Respondent must cease practicing. Respondent shall not resume practice until notified by the board.

RATIONALE: This probation condition will allow the Board to monitor the Respondent in order to ascertain if he/she is substance and/or chemical free. It is to be required when the Respondent has violated any alcohol and/or substance abuse prohibitions.

~~14. Abstain from Use of Alcohol/Controlled Substances/Dangerous Drugs - This condition is necessary for compliance with any type of rehabilitation program. This condition is to be imposed when there is a violation of alcohol/substance abuse laws and in stipulations where there is the probability that the cause of other types of violations were caused by alcohol or substance abuse.~~

Model Language

~~For the entire term of probation Respondent shall abstain from all use and possession of (alcohol, controlled substances and dangerous drugs) unless legally prescribed for medically or dental diagnosed health reasons for a bona fide illness or medical/dental condition.~~

(28) ABSTAIN FROM USE OF ALCOHOL, CONTROLLED SUBSTANCES AND DANGEROUS DRUGS. Respondent shall abstain completely from the possession, injection, or consumption of any route, including inhalation, of all psychotropic (mood altering) drugs, including alcohol, and including controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drug as defined by Business and Professions Code Section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed by a physician and surgeon, dentist, or nurse practitioner for a bona fide illness or condition. Within fifteen (15) calendar days of receiving any lawful prescription medications, Respondent shall notify the Board in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number, and specific medical purpose for medication. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each ~~Q~~quarterly ~~R~~report of Compliance submitted. Respondent shall provide the Board with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board's approval a single coordinating physician and surgeon who shall be aware of Respondent's history of substance abuse and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances, psychotropic or mood altering drugs. Once a Board-approved physician and surgeon has been identified Respondent shall provide a copy of the accusation and decision to the physician and surgeon. The coordinating physician and surgeon shall report

to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of such substances.

The Board may require that only a physician and surgeon who is a specialist in addictive medicine be approved as the coordinating physician and surgeon.

If Respondent has a positive drug screen for any substance not legally authorized, and the Board files a petition to revoke probation or an accusation, Respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

RATIONALE: Abstinence from mood altering substances (alcohol/drugs) is necessary for compliance with the Board's Probation Program and to ensure successful rehabilitation. Abstinence from any psychotropic drug is required to prevent the substitution of one addicting substance with another.

15.(29) SURRENDER/PARTIAL SURRENDER OF DRUG ENFORCEMENT AGENCY

PERMIT - ~~In cases of substance abuse or violation of statutes regulating the procurement, dispensing or administration of controlled substances and dangerous drugs, this condition must be imposed.~~

Model Language

Option 1:

Controlled Substances - Within 60 days of the effective date of this decision, ~~Respondent~~ shall submit to the Board proof of surrender of ~~Respondent's~~ Drug Enforcement Agency Permit. Respondent shall not apply for a new permit without prior written approval from the Board.

OR

Option 2:

Respondent shall not prescribe, administer, dispense, order, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, (*except for those drugs listed in Schedule(s)_____*) of the Act and/or prescribed to ~~Respondent~~ for a bona fide illness or condition by another practitioner. Respondent~~'s~~ shall ensure that the DEA Permit shall be is modified to reflect this restriction and proof submitted to the Board of this modification within 60 days.

AND/OR

~~Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following: (1) the name and address of the patient, (2) the date, (3) the character and quantity of controlled substances involved, and (4) the pathology and purpose for which the controlled substance was furnished.~~

~~Respondent shall maintain all records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.~~

RATIONALE: In cases of substance abuse/or violation of statutes regulating the procurement, dispensing or administration of controlled substances and dangerous drugs, this condition must be imposed.

~~16. **(30) ETHICS COURSE** - In those cases involving fraud, false advertising, excessive billing, or negligence this condition of probation will be imposed and may also be imposed in other cases if applicable.~~

Model Language

Ethics - Within 30 days of the effective date of this decision, ~~Respondent~~ shall submit for prior Board approval a course in ethics ~~which that~~ will be completed within the first year of probation. Units obtained for an approved course in ethics shall not be used for continuing education units required for renewal of licensure. **No correspondence or Internet courses shall be allowed.** An ethics course taken after the acts that gave rise to the charges in the accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board, be accepted towards the fulfillment of this condition.

RATIONALE: In those cases involving fraud, false advertising, excessive billing, or negligence this condition of probation will be imposed and may also be imposed in other cases if applicable.

(31) BILLING MONITOR – Within sixty (60) days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more persons to act as a billing monitor. The proposed billing monitor(s) shall have been licensed dentist for at least five (5) years be approved and not have ever been subject to any disciplinary action by the Board. Once the Board has approved a billing monitor, Respondent shall submit a plan by which the billing monitor will provide monitoring of Respondent billing practices.

All proposed billing monitors shall be independent, with no professional or personal relationship with Respondent, including a familial relationship with or be an employee, partner, or associate of Respondent. If at any time during the period of probation, the billing monitor quits or is otherwise unavailable to perform his or her monitoring duties, within fifteen (15) calendar days of the same, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more persons to be the monitor.

The billing monitor shall submit written reports to the Board on a quarterly basis verifying that monitoring has taken place as required. It shall be Respondent's responsibility to ensure that the required reports are filed in a timely manner.

Respondent shall give the monitor access to all of Respondent's dental practice business records including financial and patient records. Monitoring shall consist of at least four (4) hours, per quarter, of review of Respondent's records. This review shall take place in Respondent's office and or place of employment. ~~After four (4) quarters, if the monitor determines that less time is sufficient for compliance, the Respondent may request the Board to approve a reduction of the number of hours of review.~~ If the monitor prepares a quarterly report to the Board which finds substantial errors or omissions in, and/ or questionable billing practices, monitoring may be increased at the discretion of the Board and Respondent shall immediately comply therewith. All costs of monitoring shall be borne by the Respondent.

Each supervising monitor shall have read this Decision and the related Accusation.

~~It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within (10) calendar days after the end of the preceding quarter.~~

RATIONALE: Recommended in cases involving capping, steering, fees for patient referrals or any other type of billing irregularities or fraud.

(32) SOLO PRACTICE

Respondent is prohibited from engaging in the solo practice of dentistry.

RATIONALE: Like similar conditions, this condition prevents the respondent from engaging as a sole practitioner in the practice of dentistry in situations where there is no close supervision and/or where the respondent could have undue authority over others and/or access to controlled substances.

(33) CONTROLLED SUBSTANCE-MAINTENANCE OF RECORDS AND INVENTORIES -

Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

Failure to maintain all records, to provide immediate access to the inventory, or to make all records available for immediate inspection and copying on the premises, is a violation of probation.

RATIONALE: In cases of substance abuse/or violation of statutes regulating the procurement, dispensing or administration of controlled substances and dangerous drugs, this condition must be imposed.

(34) CLINICAL TRAINING PROGRAM - Within 60 days of the effective date of this Decision, respondent shall enroll in a clinical training or educational program offered by an approved California Dental School. The program shall consist of a comprehensive assessment comprised of a two-day assessment of respondent's basis clinical and communication skills common to all clinicians; and dental knowledge, skill and judgment pertaining to respondent's specialty or sub-specialty (if he or she has one), and at a minimum, a 40 hour program of clinical education in the area of practice for which respondent was alleged to be deficient and that takes into account data obtained from the assessment, administrative decisions and accusations, and any other information that the Board deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on respondent's performance and test results in the assessment and clinical education, the program will advise the Board of its recommendations for the scope and length of any additional education or clinical training or anything else affecting respondent's practice of dentistry.

At the completion of any additional educational or training, respondent shall submit to and pass an examination. The program's determination whether or not respondent passed the examination or successfully completed the program shall be binding.

Respondent shall complete the program no later than six months after respondent's initial enrollment unless the Board agrees in writing to a later time for completion.

Failure to participate in and complete successfully all phases of the clinical training program as outlined above is a violation of probation.

Option #1: Condition Precedent

Respondent shall not practice dentistry until he or she has successfully completed the program and has been so notified by the Board in writing, except that respondent may practice in a clinical training program approved by the Board. Respondent's practice of dentistry shall be restricted to that which is required by the program.

Option #2 Condition Subsequent

If respondent fails to complete the clinical training program within the designated time period, respondent shall cease the practice of dentistry within 72 hours after being notified by the Board that respondent failed to successfully complete the program.

RECOMMENDED PENALTIES

B&P Refers to Business and Professions Code

Section 123 B&P Subversion of Examinations

Maximum Penalty: Revocation of license or Statement of Issues denying admission into examination.

Minimum Penalty: Revocation stayed, five (5) years probation

1. Standard conditions (1-14)
2. Community Service, 40 hours per year (22)
3. Ethics Course (30)

~~Section 1680B&P General Unprofessional Conduct~~

~~Maximum Penalty: Revocation of license or Statement of Issues denying admission into examination.~~

~~Minimum Penalty: Revocation stayed, five years probation, 50 hours of non-dental community services, continuing education course in dental ethics, 100 hours of community service for each year of probation~~

Section 125.6 B&P Refusal to Treat Patient

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, three (3) years probation.

1. Standard Conditions (1-14)
2. Ethics Course (30)

Additional Condition if Warranted Based Upon Nature and Extent of Violation(s):

1. Suspension, 30 days (15)

Section 125.9B&P Failure to Comply with Citation

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five three (3) years probation, 15 days actual suspension, compliance with citation, if applicable

1. Standard conditions (1-14)
2. Suspension, 30 days (15), as an additional condition if warranted
3. Compliance with citation, if applicable

~~Section 480 B&P - Denial of a License (See B&P 1680(w))~~

Section 498 B&P License Secured by Fraud or Misrepresentation

Maximum Penalty: Revocation, Revocation in all cases in which the licensee is not qualified for the license.

Minimum Penalty: Revocation stayed, five (5) years probation

1. Standard conditions (1-14)
2. Suspension, 30 days (15)
3. Community Service, 40 hours per year (22)
4. Ethics Course (30)

~~Section 1628.7 B&P - Issuance of Probationary License~~

~~Maximum Penalty: Revocation or denial of license.~~

~~Minimum Penalty: The license will be issued as a probationary license which would include terms set forth in Section 1628.7 as applicable.~~

~~—— If already a licensee, probation could be applicable depending upon the degree of fraud or misrepresentation and its relationship to the practice of dentistry.~~

~~—— Probationary terms may include any or all of the following:~~

1. ~~—— Successfully complete a professional competency examination.~~
2. ~~—— Submit to a medical or psychological evaluation.~~
3. ~~—— Submit to continuing medical or psychological treatment.~~
4. ~~—— Abstain from the use of alcohol or drugs.~~

5. ~~Submit to random fluid testing for alcohol or controlled substance abuse.~~
6. ~~Submit to continuing participation in a board approved rehabilitation program.~~
7. ~~Restrict the type or circumstances of practice.~~
8. ~~Submit to continuing education and course work.~~
9. ~~Comply with requirements regarding notification to employer and changes of employment.~~
10. ~~Comply with probation monitoring.~~
11. ~~Comply with all laws and regulations governing the practice of dentistry.~~
12. ~~Limit practice to a supervised structured environment in which the licensee's activities shall be supervised by another dentist.~~
13. ~~Submit to total or partial restrictions on drug prescribing privileges.~~

Section 490 B&P ~~Conviction of a Crime~~
~~See Section 1670.1~~

Section 650 B&P Accepting or Receiving Rebates
Section 1680(g) CCRB&P

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, three (3) years probation

1. Standard conditions (1-14)
2. Suspension, 30 days (15)
3. Community Service , 40 hours per year (22)
4. Ethics Course (30)

For more serious cases, the following additional condition should be imposed:

1. Suspension, 30 days (15)

~~See Section 1680(g)~~

Section 650.2(i) B&P Patient Referral Service-Failure to Disclose

Maximum Penalty: Revocation of registration of dental service.

Minimum Penalty: Revocation stayed, two ~~three (3)~~ two (2) years probation

1. Standard conditions (1-14)
2. Community Service , 40 hours per year(22)

3. Ethics Course (30)

Also see Section 1680(g)

Section 651 B&P False, Misleading or Deceptive Public Communications

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, ~~three (3)~~ two (2) years probation and correct advertising

1. Standard Conditions (1-14)
2. Community Service , 40 hours per year (22)
3. Ethics Course (30)

See Section 1680(h)-(l)

Section 654.1 B&P Prohibits Referral of Patients to Laboratories without Disclosure of Beneficial Interest

Maximum Penalty: Revocation of registration of dental referral service.

Minimum Penalty: Revocation stayed, ~~three (3)~~ two (2) years probation

1. Standard Conditions (1-14)
2. Ethics Course (30)

Section 654.2 B&P Prohibits charges, billings, solicitations or referrals without disclosure of beneficial interest.

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, two ~~three (3)~~ two (2) years probation, ~~50 hours of community service.~~

1. Standard Conditions (1-14)
2. Community Service, 40 hours per year (22)
3. Ethics Course (30)

Section 725 B&P Excessive ~~P~~rescribing or Treatment or Administration of Drugs

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, Five (5) years probation

1. Standard Conditions (1-14)
2. Remedial Education, Prescribing Practice Course (16)
3. Community Service, 40 hours per year (22)
4. Surrender/Partial Surrender of DEA Permit (19)
5. Ethics Course (30)
6. Controlled Substance-Maintenance of Records and Inventories (33)

In more serious cases the following additional conditions should be imposed:

1. Suspension, 60 days (15)
2. Examination (17)
3. Supervised Practice (18)

See Section 1680(p)

Section 726 B&P Commission of Act of Sexual Abuse or Misconduct With Patient.

Maximum Penalty: ~~See Section 1680(e)~~ Revocation

Minimum Penalty: Revocation stayed, five years probation for consensual sex with one patient

1. Standard Conditions (1-14)
2. Ethics Course (30)
3. Professional Boundaries program
4. Psychiatric Evaluation
5. Third Party Chaperone
6. Suspension, 60 days, additional condition if warranted
7. Psychotherapy, additional condition if warranted
8. Restricted Practice, additional condition if warranted

Section 732 B&P Failure to Refund Overpayments to Patients

Maximum Penalty: Revocation

Minimum Penalty: ~~Revocation stayed, five (5) years probation, refund to patient, 50 hours dentally related community service~~

1. Standard Conditions (1-14)
2. Restitution (21)
3. Ethics Course (30)

Section 810 B&P Insurance Fraud

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, Five (5) years probation

1. Standard Conditions (1-14)
2. Suspension, 60 days (15)
3. Remedial Education, in book keeping (16)
4. Restitution (21)
5. Community Service , 50 hours (22)
6. Ethics Course (30)
7. Billing Monitor (31)

See Section 1680(a)

Section 822 B&P Psychological/or Physical Illness

Maximum Penalty: Revocation

Minimum Penalty: ~~Revocation stayed, standard conditions, indefinite probation comply with recommendation of examining psychiatrist. May include actual suspension, or limited practice or practicing under a supervised setting.~~ three (3) years probation, depending on severity.

Psychological Illness:

1. Standard conditions (1-14)
2. Psychological Evaluation (23)
3. Psychotherapy (24)

Additional conditions if the licensee is suffering from a serious psychological illness:

1. Suspension from practice until determined safe to practice after completing psychological evaluation (23).
2. Supervised practice (18)
3. Solo practice (32)

Physical Illness:

1. Standard conditions (1-14)
2. Physical evaluation (25)
3. Solo practice (32)

Additional conditions if the licensee is suffering from a serious physical illness:

1. Suspension from practice until determined safe to practice after completing physical evaluation (25)
2. Supervised practice (18)
3. Solo practice (32)

Section 1611.5 B&P Inspection of Books, Records, and Premises

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, three (3) years probation ~~and compliance~~

1. Standard Conditions (1-14)
2. Ethics Course (30)

~~Section 1628. B&P Denial of Application to Take Examination or Licensure~~

~~Section 1628.7B&P Issuance of a Probationary License~~

~~Maximum Penalty: Denial.~~

~~Minimum Penalty: The license will be issued as a probationary license which would include terms set forth in Section 1628.7 as applicable.~~

~~NOTE: The Board has the authority to issue a probationary license after successful examination pursuant to 1628.7. The probationary terms may include, but are not limited to the following:~~

- ~~1. Successfully complete a professional competency examination.~~

2. ~~Submit to a medical or psychological evaluation.~~
3. ~~Submit to continuing medical or psychological treatment.~~
4. ~~Abstain from the use of alcohol or drugs.~~
5. ~~Submit to random fluid testing for alcohol or controlled substance abuse.~~
6. ~~Submit to continuing participation in a board approved rehabilitation program.~~
7. ~~Restrict the type or circumstances of practice.~~
8. ~~Submit to continuing education and course work.~~
9. ~~Comply with requirements regarding notification to employer and changes of employment.~~
10. ~~Comply with probation monitoring.~~
11. ~~Comply with all laws and regulations governing the practice of dentistry.~~
12. ~~Limit practice to a supervised structured environment in which the licensee's activities shall be supervised by another dentist.~~
13. ~~Submit to total or partial restrictions on drug prescribing privileges.~~

Section 1645 B&P Continuing Education Violations

~~(Section 1680(n)B&P)~~

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ Revocation **stayed**, ~~five (5)~~**three (3)** years probation, 30 days actual suspension, and compliance within one (1) year, ~~and community service where appropriate~~

1. Standard Conditions (1-14)
2. Community service, 40 hours per year (22)
3. Ethics Course (30)

For More Serious Cases, the Following Additional Condition Should be Imposed:

1. Suspension, 30 days (15)

Section 1680(n)

Section 1646.1 B&P Administration of General Anesthesia (GA) Without a Permit/Failure to Renew a Permit

~~Section 1647.2B&P Administration of Conscious Sedation without a Permit/Failure to Renew a Permit~~

Maximum Penalty: Revocation of Licensure and/or Denial of Permit

Minimum Penalty: ~~Stayed~~ Revocation ~~stayed~~, five ~~three (3)~~ five (5) years probation, ~~60~~ days actual suspension if practicing without ever having been issued a permit. ~~Must apply for GA permit if sedation privileges are to continue.~~

1. Standard Conditions (1-14)
2. Suspension, 30 days (15) if practicing without ever having been issued a permit.
3. Ethics Course (30)

Section 1647.2 B&P Administration of Conscious Sedation Without a Permit/Failure to Renew a Permit

Maximum Penalty: Revocation of Licensure and/or Denial of Permit

Minimum Penalty: Revocation stayed, ~~three (3)~~ five (5) years probation

1. Standard Conditions (1-14)
2. Suspension, 30 days (15) if practicing without ever having been issued a permit.
3. Ethics Course (30)

Section 1647.11 B&P Administration of Oral Conscious Sedation Without a permit - Minors

Maximum Penalty: Revocation of Licensure and/or Denial of Permit

Minimum Penalty: Revocation stayed, ~~three (3)~~ five (5) years probation

1. Standard Conditions (1-14)
2. Suspension, 30 days (15) if practicing without ever having been issued a permit.
3. Ethics Course (30)

Section 1647.19 B&P Administration of Oral Conscious Sedation Without a permit -Adults

Maximum Penalty: Revocation of Licensure and/or Denial of Permit

Minimum Penalty: Revocation stayed, ~~three (3)~~ five (5) years probation

1. Standard Conditions (1-14)
2. Suspension, 30 days (15) if practicing without ever having been issued a permit.
3. Ethics Course (30)

Section 1650B&P ~~Duty to Register Place of Practice~~

~~Section 1658 B&P Additional Office~~

~~(Section 1680(n) B&P)~~

Maximum Penalty: ~~Revocation~~

Minimum Penalty: ~~Reprimand with a \$250 fine~~

Section 1670 B&P ~~Gross Negligence, Gross Incompetence, Repeated Acts of Negligence~~

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ **Revocation** ~~stayed, three (3) to five (5) two (2) years~~ probation depending on nature and extent of the violation, plus 30 days actual suspension and restitution where appropriate. Options and additions where appropriate: (1) restriction of the scope of practice; (2) work only in a supervised environment; and (3) remedial education, with or without successful re-examination which is tailored to the specific area of incompetence or negligence; (4) take and pass an examination which may include the Board's licensure examination clinical and/or written. If unsuccessful in examination, must cease the practice of dentistry and may not resume the practice of dentistry until successful in the examination.

1. Standard Conditions (1-14)
2. Remedial Education (16)
3. Supervised Practice (18)
4. Community Service, 40 hours per year (22), as an additional condition if warranted

Additional conditions if warranted based on nature and extent of violation(s):

1. Suspension (15)
2. Examination (17)
3. Restricted practice (19)

4. Solo practice (32)
5. Clinical training program (34)

~~Section 1670 B&P~~ Battery upon a Patient (General Unprofessional Conduct)

~~Maximum Penalty: Revocation~~

~~Minimum Penalty: Stayed revocation, seven (7) years probation, 30 days actual suspension, standard conditions. Psychiatric examination and treatment if necessary. Supervised structured environment, and community service.~~

~~Section 1670 B&P~~ License Issued by Mistake

~~Penalty: Revocation~~

Section 1670.1 B&P Conviction of a Crime
~~(Section 490 B&P)~~

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed r~~Revocation **stayed**, three (3) to five (5) years probation with terms and conditions depending upon the nature of the criminal offense. Comply with any criminal probation.

1. Standard Conditions (1-14)
2. Suspension, 30 days (15) depending on the nature of the criminal offense
3. Community Service , 40 hours per year (22)
4. Ethics Course (30)

Section 1671 B&P Violation of Probation

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed and extension of probationary period probation depending upon the nature of the violation

The maximum penalty should be given for repeated similar offenses.

Section 1680(a) B&P or Obtaining Any Fee by Fraud or Misrepresentation

Section 810 B&P Insurance Fraud

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed r~~Revocation **stayed**, five (5) years probation, ~~plus 30 days~~
~~actual suspension, restitution and community service program.~~

1. Standard Conditions (1-14)
2. Suspension, 60 days (15)
3. Remedial Education (16)
4. Restitution (21)
5. Community Service , 50 hours (22)
6. Ethics Course (30)
7. Billing Monitor (31)

Section 1680(b) B&P Employment of Any Student or Suspended or Unlicensed Dentist

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, ~~Five (5)~~ three (3) years probation

1. Standard Conditions (1-14)
2. Suspension, 60 days (15), as an additional condition, if warranted
3. Community Service , 40 hours (22)
4. Ethics Course (30)

Section 1680(c) B&P Aiding or Abetting Unlicensed Practice

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, ~~Five (5)~~ three (3) years probation

1. Standard Conditions (1-14)
2. Suspension, 60 days (15), as an additional condition, if warranted
3. Community Service , 50 hours per year (22)
4. Ethics Course (30)

Section 1680(d) B&P Aiding or Abetting Licensed Person to Practice Dentistry Unlawfully

Maximum Penalty: Revocation

Minimum Penalty: Revocation ~~Stayed, six-month suspension, Five (5) three (3) years probation, 45 days actual suspension. Optional conditions can include restitution to patients, and community service program. These optional conditions are predicated upon the possibility of harm to the patient which was caused by the actions of the respondent.~~

1. Standard Conditions (1-14)
2. Suspension, 60 days (15), as an additional condition, if warranted
3. Remedial Education (16)
4. Restitution (21)
5. Community Service , 40 hours per year (22)
6. Ethics Course (30)

Section 1680(e) B&P Gross Immorality Sexual Abuse, Misconduct, or Relations with a Patient
(Section 726 B&P)

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ Revocation stayed, ~~Seven (7) Five (5) years probation, 60 days suspension. (If indicated, respondent shall not treat minor patients or other members of the patient population.)~~ Conditions of probation shall include psychiatric evaluation and treatment, and/or counseling program, semiannual psychotherapy reports submitted to the Board and the necessity of having an auxiliary present while treating patients where appropriate. The psychiatrist or psychologist rendering treatment must be approved by the Board. Options might include restricted practice setting. If the violation involved sexual misconduct with a minor, probation shall remain in effect until proof of complete rehabilitation is demonstrated.

1. Standard Conditions (1-14)
2. Suspension, 60 days (15)
3. Remedial Education (16)
4. Supervised Practice (18)
5. Third Party Chaperone Monitor (20)
6. Community Service, 50 hours per year (22)
7. Psychological Evaluation (23)

8. Psychotherapy (24)
9. Ethics Course (30)
10. Solo Practice (32)

Section 1680(f) B&P Use of False or Fictitious Names

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ Revocation ~~stayed~~, 15 days suspension, two (2) years probation ~~with the requirement of corrective advertising as appropriate where the use of the name involved substantial deception of the public related to the practice of dentistry.~~

1. Standard Conditions (1-14)
2. Suspension, -30 day (15) suspension where the use of the name involved substantial deception of the public related to the practice of dentistry.
3. Ethics Course (30)

~~**Section 1680(g) B&P Accepting or Receiving Rebates**~~ (Section 650 B&P)

~~Maximum Penalty: Revocation~~

~~Minimum Penalty: Stayed revocation, 30 days suspension, five (5) years probation and at least 50 hours of community service if the unlawful practice was extensive.~~

Section 1680(h) B&P Use of Deceptive or Misleading Advertising Statements

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, three (3) years probation and correct advertising

1. Standard Conditions (1-14)
2. Community Service , 40 hours per year(22)
3. Ethics Course (30)

Section 1680(i) B&P Advertising of Professional Superiority

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, three (3) years probation and correct advertising

1. Standard Conditions (1-14)
2. Community Service , 40 hours per year (22)
3. Ethics Course (30)

Section 1680(j) B&P Employing or Making use of Solicitors

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, three (3) years probation

1. Standard Conditions (1-14)
2. Community Service , 40 hours per year (22)
3. Ethics Course (30)

Section 1680(k) B&P Any Advertising that Violates Section 651 of the Business and Professions Code

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, ~~three (3)~~ two (2) years probation and correct advertising

Please see Section 651 B&P for proposed penalty.

Section 1680(l) B&P Advertising to Guarantee Any Dental Service or to Perform Dental Operations Painlessly

(Section 651 B&P)

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ ~~Revocation~~ ~~stayed, three (3)~~ ~~two (2)~~ years probation with and ~~corrective~~ advertising as appropriate, and ~~100 hours of community services.~~

1. Standard Conditions (1-14)
2. Community Service , 50 hours per year (22)

3. Ethics Course (30)

Section 1680(m) B&P Violation of any Law Regulating the Dispensing or Administration of Dangerous Drugs or Controlled Substances

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed r~~Revocation stayed, ~~five (5)~~ three (3) years probation, ~~60 days actual suspension and loss of DEA permit (complete or partial). Also, where appropriate, community service and working within a supervised setting.~~

1. Standard Conditions (1-14)
2. Suspension , 60 days (15), as additional condition if warranted
3. Remedial Education (16)
4. Supervised environment (18)
- ~~5. Community Service, 40 hours per year (22)~~
- ~~6. Diversion (26)~~
- ~~7. Biological Testing (27)~~
- ~~8. Abstain from use of alcohol, controlled substances and dangerous drugs(28)~~
- ~~9. Surrender/partial surrender of DEA permit (29)~~
- ~~10-5. Ethics Course (30)~~
- ~~11-6. Controlled Substances-Maintenance of Records and Inventories (33)~~

Additional conditions:

1. Community Service, 40 hours per year (22)
2. Diversion (26)
3. Biological Testing (27)
4. Abstain from use of alcohol, controlled substances and dangerous drugs(28)
5. Surrender/partial surrender of DEA permit (29)

Section 1680(o) B&P Permitting any Person to Operate Radiographic equipment in Violation of the Law Radiation Safety

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, Five (5) years probation

1. Standard Conditions (1-14)

2. Suspension, 60 days (15)
3. Community Service , 40 hours per year (22)
4. Ethics Course (30)

Minimum Penalty: ~~Reprimand with compliance within 30 days, where appropriate, suspension until the condition is corrected.~~

Section 1680(p) B&P Clearly Excessive Prescribing or Treatment
(Section 725 B&P)

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five (5) ~~to seven (7)~~ years probation and restitution in those cases which result in economic harm to the patient. In those cases which additionally result in actual or potential future physical harm to the patient, there should be restitution, five (5) years of probation and 45 days of actual suspension and restriction or elimination of prescribing privileges, if applicable.

1. Standard Conditions (1-12)
2. Remedial Education (14)
- ~~3. Safe or closure of office (19)~~
- ~~4.~~3. Community Service, 40 hours per year (22)
- ~~5.~~4. Surrender/Partial Surrender of DEA Permit (29)
- ~~6.~~5. Ethics Course (30)
- ~~7.~~6. Controlled substance-Maintenance of Records and Inventories (33)

For more serious cases, the following additional conditions should be imposed:

1. Suspension, 60 days (13)
2. Supervised practice (18)
3. Restitution (21)
4. Clinical Training Program (34)

Section 1680(q) B&P Use of Threats or Harassment to Dissuade Testimony

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five (5) years probation

1. Standard Conditions (1-14)

2. Suspension, 60 days (15)
3. Community Service, 40 hours per year (22)
4. Ethics Course (30)

Section 1680(r) B&P Suspension or Revocation by Another State

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ Revocation stayed, five (5) years probation, ~~standard~~
conditions. ~~Impose similar conditions as indicated by other state.~~

1. Standard Conditions (1-14)
2. Impose similar conditions as indicated by other state.
3. Ethics Course (30)

Section 1680(s) B&P Alteration of Patient Records

Maximum Penalty: Revocation

Minimum Penalty: ~~Revocation~~, ~~stayed~~, five (5) years probation, ~~30 days actual~~
~~suspension~~, and correction of condition. ~~In appropriate cases, the suspension should be~~
~~extended until the condition is corrected.~~

1. Standard Conditions (1-14)
2. Remedial Education (16)
3. Supervised Environment (18)
4. Community Service, 40 hours per year (22)
5. Ethics Course (30)

For more serious violations, the following additional condition should be imposed:

Suspension, 60 days (15)

Section 1680(t) Unsanitary Conditions

Maximum Penalty: Revocation

Minimum Penalty: Revocation, stayed three (3) years probation

1. Standard Conditions (1-14)
2. Remedial Education (16)

If violation does not warrant a 3 year probation, consideration should be given to a lesser probationary period with a requirement to take a course in infection control approved by the Board.

In more serious cases:

Suspension, 30 days (15)

Section 1680(u) B&P Abandonment of Patient

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five (5) years ~~of probation, 15 days actual suspension, restitution where appropriate and community service where feasible.~~

1. Standard Conditions (1-14)
2. Community Service, 40 hours per year (22)
3. Ethics Course (30)

For those more serious violations, the following condition should be imposed:

Suspension, 30 days (15)

Section 1680(v) B&P Misrepresenting the Facts Regarding Disciplinary Action

Maximum Penalty: Revocation

Minimum Penalty: ~~If any period of suspension was levied in the original disciplinary action, that period of suspension should be doubled.~~ Revocation stayed, three (3) years probation.

1. Standard Conditions (1-14)
2. Ethics Course (30)

Section 1680(w) B&P Fraud in the Procurement of Any License

Maximum Penalty: Revocation. Revocation in all cases in which the licensee is not qualified for the license.

Minimum Penalty: Revocation, five (5) years probation

1. Standard Conditions (1-14)
2. Suspension, 30 days (15)
3. Community Service, 40 hours per year (22)
4. Ethics Course (30)

Section 1680(x) B&P Actions ~~which~~ that would Warrant Denial of a License

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, **five (5) years probation**, one (1) year suspension. This penalty is only to be given if the dentist is otherwise qualified to practice in the State of California.

1. Standard Conditions (1-14); and

Any other conditions as appropriate and consistent with these guidelines based on the particular action.

Section 1680(y) B&P Aiding or Abetting Negligent or Incompetent Practice

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed r~~Revocation **stayed**, five (5) years probation, ~~plus 30 days actual suspension and restitution (where appropriate). Options and additions, where appropriate: (1) restriction of the scope of practice; (2) work only in a supervised environment; and (3) remedial education with or without successful re-examination which is tailored to the specific area of incompetence or negligence.~~

1. Standard conditions (1-14)
2. Suspension, 30 days (15)
3. Remedial Education (16)

4. Examination (17) if appropriate
5. Supervised Environment (18)
6. Restricted practice (19)
7. Ethics Course (30)

Section 1680(z) B&P Failure to Report Patient Death

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ Revocation stayed, 5 years probation, ~~30 days actual suspension.~~

1. Standard conditions (1-14)
2. Ethics Course (30)

For more serious cases, the following additional condition should be imposed:

1. Suspension, 30 days (15)

Section 1680(aa) B&P Violation of Business and Professions Code, Section 650.2 Participating In or Operating Any Group Advertising or Referral Services that is not Registered by the Board

Maximum Penalty: Revocation~~;~~

Minimum Penalty: Revocation~~;~~ ~~stayed, two (2) three (3)~~ two (2) years probation, ~~six (6) months suspension from advertising through referral services, complete a course in ethics and 50 hours of community service.~~

1. Standard Conditions (1-14)
2. Suspension, six (6) months suspension from advertising through referral services
3. Community Service, 40 hours per year (22)
4. Ethics Course (30)

(Section 650.2 B&P)

Section 1680(~~bab~~)B&P Failure to use a Fail-Safe Machine

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ ~~r~~Revocation stayed, five ~~three~~ (3) years probation and ~~30~~ days actual suspension and requirement to obtain and use correct machine.

1. Standard Terms (1-14)
2. Proof of Correction Through Obtaining and Using Correct Machine
3. Remedial Education (16)

Section 1680(~~eac~~) Engaging in Practice of Dentistry with an Expired License

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ ~~r~~Revocation stayed, ~~three (3)~~ two (2) years probation with requirement for completion of the deficient continuing education units within 90 days, if applicable, and community service.

1. Standard Terms Conditions (1-14)
- ~~2. Suspension, 30 days (15)~~ 2. Suspension, 30 days (15)), as an additional condition, if warranted
- ~~3. 2.3.Ethics (30)~~

Section 1680(~~dad~~) Unsafe and Sanitary Conditions

Maximum Penalty: Revocation

Minimum Penalty: Revocation, ~~stayed~~, three (3) years probation, ~~30 days actual suspension, proof of correction of the condition.~~

1. Standard Conditions (1-14)
2. Suspension, 30 days (15)
3. Remedial Education in infection control (16)
4. Proof of correction of the condition

If violation is not severe enough to warrant a 3 year probation, consideration should be given to a lesser probationary period with a requirement to take a course in infection control approved by the Board

Section 1680(e) The Use of Auxiliaries Beyond the Scope of the License

Maximum Penalty: Revocation

Minimum Penalty: Revocation, ~~stayed, five (5) years probation, 30 days actual suspension.~~ three (3) years probation

1. Standard Conditions (1-14)
2. Suspension, 60 days (15), as an additional condition if warranted
3. Remedial Education in scope of practice for dental auxiliaries (16)
4. Proof of correction of the condition

If violation is not severe enough to warrant a 3 year probation, consideration should be given to a lesser probationary period with a requirement to take a course in the scope of practice of a dental auxiliary approved by the Board.

Section 1681(a) B&P Substance, Alcohol or Controlled Substances/Alcohol Conviction-Substance Abuse, Possession or Control, Alcohol Abuse, or Conviction related to Controlled Substances

Maximum Penalty: Revocation

Minimum Penalty: ~~Stayed~~ Revocation ~~stayed, five (5) years probation, 30 days actual suspension, and loss of DEA permit (complete or partial), and/or maintain a controlled substance log, and psychotherapeutic treatment or counseling program with psychotherapist to be approved by the Board. Shall immediately submit to biological testing, at respondent's cost. Abstain from the use of alcoholic beverages and/or controlled substances. Also, where appropriate, a dentist should be restricted to working in a supervised setting. Dentist may also be required to participate in the Board's Drug Diversion Program if determined appropriate by the Board's Diversion Evaluation Committee.~~

1. Standard Conditions (1-14)
2. Supervised Practice (18)
3. Abstain from use of alcohol, Controlled substances and dangerous drugs (28)
4. Surrender/Partial surrender of DEA permit (29)
5. Ethics Course (30)
6. Controlled Substance-Maintenance of Records and Inventories (33)

Optional Conditions Where Appropriate:

1. Psychological Evaluation (23)
2. Psychotherapy (24)
3. Diversion (26)
4. Biological Fluid Testing (27)

Section 1681 (b) B&P Use of drugs/alcohol causing danger to patient

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, seven (7) years probation

1. Standard Conditions (1-14)
2. Suspension, 60 days (15)
3. Supervised Practice (18)
4. Psychological Evaluation (23)
5. Psychotherapy(24)
6. Diversion(26)
7. Biological Fluid Testing (27)
8. Abstain from use of Alcohol, Controlled Substances and Dangerous Drugs (28)
9. Surrender/Partial Surrender of DEA permit (29)
10. Ethics Course (30)
11. Controlled Substance-Maintenance of Records and Inventories (33)

Section 1681 (c) B&P Conviction of violating state drug statutes

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, 5 years probation

1. Standard Conditions (1-14)
2. Suspension, 60 days (15)
3. Supervised Practice (18)
4. Psychological Evaluation (23)
5. Psychotherapy (24)
6. Diversion (26)
7. Biological Fluid Testing (27)
8. Abstain from use of Alcohol, Controlled Substances and Dangerous Drugs (28)
9. Surrender/Partial Surrender of DEA permit (29)
10. Ethics Course (30)
11. Controlled Substance-Maintenance of Records and Inventories (33)

Section 1682 B&P Violation of Requirements re Patients Undergoing Conscious Sedation or General Anesthesia

Maximum Penalty: Revocation of licensure and/or Permit

Minimum Penalty: Revocation stayed, five (5) years probation, ~~30 days actual suspension. Option where appropriate, can be the restriction of the scope of practice.~~

1. Standard Conditions (1-14)
2. Remedial Education (16)
3. Examination (17)
4. Supervised Practice (18)
5. Restricted Practice (19)
6. Ethics Course (30)

Section 1647 B&P

Section 1683 B&P Treatment Entries in Patient Records

Maximum Penalty: Revocation of licensure and/or Permit

Minimum Penalty: Revocation stayed, three (3) years probation, ~~correction of condition.~~

1. Standard Conditions (1-14)
2. Remedial Education(16)

If violation is not severe enough to warrant a 3 year probation, consideration should be given to a lesser probationary period or public reprimand with a requirement to take a course approved by the Board in how to maintain patient records approved by the Board.

Section 1684 B&P Service Beyond the Scope of License
~~See Section 1670 B&P~~

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, ~~five (5)~~ three (3) years probation

1. Standard Conditions (1-14)

2. Community Service, 40 hours per year (22)
3. Ethics Course (30)

Options and additions where appropriate

1. Suspension (15)
2. Remedial Education (16)
3. Examination (17)
4. Supervised Practice (18)
5. Restricted Practice (19)
6. Restitution (31)
7. Clinical Training Program (34)

Section 1685 B&P Permitting Dental Care that Discourages Necessary or Encourages Excessive or Improper Treatment

Maximum Penalty: Revocation

Minimum Penalty: Revocation stayed, five (5) years probation and restitution in those cases which result in economic harm to the patient. Thirty days (30) actual suspension and, where appropriate, remedial education with or without successful re-examination tailored to the specific area of incompetence or negligence.

1. Standard Conditions (1-14)
2. Ethics Course (30)

Options and additions where appropriate

1. Suspension, 30 days (15)
2. Remedial Education (16)
3. Examination (17)
4. Restitution (21)
5. Clinical Training Program (34)

Section 1700(e) Practicing while Under the Influence of Alcohol or a Controlled Substance

See Section 1681.

Section 1701.5B&P Fictitious Name Permit
(Section 1680(n)B&P)

Maximum Penalty: Revocation

Minimum Penalty: Stayed revocation, 15 days suspension, two (2) years probation with the requirement of corrective advertising as appropriate where the use of the name involved substantial deception of the public related to the practice of dentistry.

Violation of Probation

Maximum Penalty: Revoke probation and impose stayed penalty.

Minimum Penalty: Extend probation with appropriate new conditions.